



DEPARTMENT OF TRANSPORTATION

[4910-EX-P]

Federal Motor Carrier Safety Administration

[Docket No. FMCSA-2014-0406]

Commercial Driver's License Standards: Application for Exemption; C.R. England, Inc.

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of application for exemption; request for comments.

SUMMARY: FMCSA announces that C.R. England, Inc. (C.R. England) has applied for an exemption from the Federal minimum training conditions in 49 CFR 383.25(a)(1) that require a commercial learner's permit (CLP) holder to always be accompanied by a commercial driver's license (CDL) holder with the proper CDL class and endorsements seated in the front seat of the vehicle while the CLP holder performs behind-the-wheel training on public roads or highways. C.R. England requests an exemption to allow CLP holders who have passed the CDL skills test but not yet received the CDL document to drive a commercial motor vehicle without being accompanied by a CDL holder, provided the driver has documentation of passing the skills test. C.R. England believes that the exemption, if granted, would allow such a driver to operate more freely and in a way that benefits the driver, the carrier, and the economy as a whole.

DATES: Comments must be received on or before [INSERT DATE 30 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER.]

ADDRESSES: You may submit comments identified by Federal Docket Management System Number FMCSA-2014-0406 by any of the following methods:

- Federal eRulemaking Portal: www.regulations.gov. Follow the online instructions for submitting comments.

- Fax: 1-202-493-2251.
- Mail: Docket Management Facility, U.S. Department of Transportation, 1200 New Jersey Avenue, SE., West Building, Ground Floor, Room W12-140, Washington, DC 20590-0001.
- Hand Delivery or Courier: West Building, Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE., between 9 a.m. and 5 p.m. E.T., Monday through Friday, except Federal holidays.

Instructions: All submissions must include the Agency name and docket number.

For detailed instructions on submitting comments and additional information on the exemption process, see the Public Participation heading below. Note that all comments received will be posted without change to www.regulations.gov, including any personal information provided. Please see the Privacy Act heading below.

Docket: For access to the docket to read background documents or comments received, go to www.regulations.gov at any time and in the box labeled “SEARCH for” enter FMCSA-2014-0406 and click on the tab labeled “SEARCH.”

Privacy Act: In accordance with 5 USC 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to www.regulations.gov, as described in the system of records notice (DOT/ALL-14 FDMS), which can be reviewed at www.dot.gov/privacy.

Public Participation: The Federal eRulemaking Portal is available 24 hours each day, 365 days each year. You can get electronic submission and retrieval help and guidelines under the “help” section of the Federal eRulemaking Portal Web site. If you

want us to notify you that we received your comments, please include a self-addressed, stamped envelope or postcard, or print the acknowledgement page that appears after submitting comments online.

FOR FURTHER INFORMATION CONTACT: Mrs. Pearlie Robinson, FMCSA Driver and Carrier Operations Division; Office of Carrier, Driver and Vehicle Safety Standards; Telephone: 202-366-4325. E-mail: MCPSD@dot.gov.

SUPPLEMENTARY INFORMATION:

Background

FMCSA has authority under 49 U.S.C. 31136(e) and 31315 to grant exemptions from the Federal Motor Carrier Safety Regulations. FMCSA must publish a notice of each exemption request in the **Federal Register** (49 CFR 381.315(a)). The Agency must provide the public an opportunity to inspect the information relevant to the application, including any safety analyses that have been conducted. The Agency must also provide an opportunity for public comment on the request.

The Agency reviews the safety analyses and the public comments, and determines whether granting the exemption would likely achieve a level of safety equivalent to, or greater than, the level that would be achieved by the current regulation (49 CFR 381.305). The decision of the Agency must be published in the **Federal Register** (49 CFR 381.315(b)) with the reason for the grant or denial, and, if granted, the specific person or class of persons receiving the exemption, and the regulatory provision or provisions from which exemption is granted. The notice must also specify the effective period of the exemption (up to 2 years), and explain the terms and conditions of the exemption. The exemption may be renewed (49 CFR 381.300(b)).

Request for Exemption

C.R. England is a carrier that transports temperature-sensitive freight. It provides CDL training for its drivers in partnership with Premier Truck Driving Schools in five locations (Burns Harbor, IN; Dallas, TX; Fontana, CA; Richmond, IN; and Salt Lake City, UT). C.R. England seeks an exemption from 49 CFR 383.25(a)(1) that would allow CLP holders who have successfully passed a CDL skills test and are thus eligible to receive a CDL to drive a truck without a CDL holder being present. This would allow a CLP holder to participate in a revenue-producing trip back to his or her State of domicile to obtain the CDL document, as the CDL can only be issued by the State of domicile in accordance with Part 383.

C.R. England advises that FMCSA is aware of the trucking industry's need for qualified and well-trained drivers to meet increasing shipping demands. C.R. England believes that 49 CFR 383.25(a)(1) limits its ability to effectively and efficiently recruit, train, and employ new entrants to the industry. Prior to the implementation of section 385.25(a)(1), States routinely issued temporary CDLs to drivers who passed the CDL skills test. The temporary CDL allowed C.R. England time to route the new driver to his or her State of domicile to obtain a CDL and place the new driver into an on-the-job training position with a driver-trainer. The driver-trainer supervised and observed the new driver, but was not required to be on-duty and in the front seat at all times. Thus, the new driver became productive immediately, allowing more freight movement for C.R. England and compensation for the new driver.

C.R. England contends that compliance with the CDL rule prevents it from implementing more efficient and effective operations. The rule places C.R. England in

an untenable position of either sending the CLP holder home without having hired him or her (because the person does not yet have a CDL) with no assurance that the driver will remain with C. R. England after obtaining the CDL; or, hiring the CLP holder and sending him or her home in an unproductive non-driving capacity. Granting the exemption would allow the CLP holder to drive as part of a team on that trip, resulting in reduced costs and increased productivity.

C.R. England asserts that the exemption would be consistent with FMCSA's comments in the preamble to the rule that state that "FMCSA does not believe that it is safe to permit inexperienced drivers who have not passed the CDL skills test to drive unaccompanied." (76 FR 26861) The exemption sought would apply only to those C.R. England drivers who have passed the CDL skills test and hold a CLP. C.R. England believes that the exemption would result in a level of safety that is equivalent to or greater than the level of safety provided under the rule. The only difference between a CLP holder who has passed the CDL skills test and a CDL holder is that the latter has waited in line at the DMV and has received the hard copy CDL.

A copy of C.R. England's application for exemption is available for review in the docket for this notice.

Request for Comments

In accordance with 49 U.S.C. 31315(b)(4) and 31136(e), FMCSA requests public comment on C.R. England's application for an exemption from the CDL requirements of 49 CFR part 383. The Agency will consider all comments received by close of business on [INSERT DATE 30 DAYS AFTER PUBLICATION IN THE **FEDERAL REGISTER**.] Comments will be available for examination in the docket at the location

listed under the **ADDRESSES** section of this notice. The Agency will consider to the extent practicable comments received in the public docket after the closing date of the comment period.

Issued on: November 17, 2014.

Larry W. Minor,
Associate Administrator for Policy.

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